



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant: Colin I'Anson

Serial No: 09/770,074

For: COST SENSITIVE CONTROL OF DATA TRANSFER INVOLVING
A MOBILE ENTITY

Filed: January 25, 2001

Examiner: Angelica Perez

Art Unit: 2684

Docket Nos.: 30001736US
976.0102USU

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

Appellants are filing the present Reply Brief in response to an Examiner's Answer dated December 13, 2007. This Reply Brief is being filed in accordance with the provisions of 37 C.F.R. 41.41.

The Examiner's Answer does not raise any new grounds of rejection of the claims, however the Examiner does raise new points of argument. This brief is directed only to the new points of argument.

In the Examiner's Answer, section 13, beginning on page 14, the Examiner refutes Appellant's contention that Stinson, Zonoun, Hilsenrath, Shaffer and the combination thereof do not disclose or suggest determining by reference to both current and future data-transfer tariffs. Specifically, the Examiner refers to Hilsenrath (page 10, lines 5-14 and page 24, lines

14-17). The Examiner states that, for example, users “are informed of the current tariffs for determined services as well as tariffs for future times such as nightly rates, weekend rates, times when data transfer traffic is light, etc., therefore, the user can refer to the tariff information provided and select the best time for data transfer service depending on at least the least cost available.” Appellant respectfully disagrees.

Hilsenrath discloses a least-cost routing module 3 (“LCRM”) that is programmed with the least cost route for a given destination of a telephone call. When a caller at telephone 1 calls telephone 2, LCRM 3 determines from a look up table which of networks 5a, 5b and 5c provide a preferred connection between telephone 1 and telephone 2 based on a preferred route such as a least cost route (page 8, lines 16-25).

A control center 7 collates costing information for each of networks 5a, 5b and 5c for determining rates charged by the network service, and the least cost route is calculated by control center 7 for given time periods (page 10, lines 5-10). LCRM tables 31, 31a indicate least cost routes by geographical location during each of a number of time periods (page 15, lines 14-18).

Table 1 on page 16 of Hilsenrath shows a portion of table 31 stored by the LCRM 3 (page 16, lines 8-19). For each of three time periods T1, T 2 and T 3, the least cost route is given for each of five destinations ID1 to ID5 (page 16, line 21 – page 17, line 5). The least cost routing data is then wirelessly downloaded to LCRM 3 during a cheap tariff period (page 24, line 14-17).

The sequence of events disclosed in Hilsenrath when a number is dialed is disclosed starting at page 18, line 26. After a number is dialed, the dialed number is analyzed and a location ID is obtained from location table 30 (page 19, lines 7-9). Next, information about the current time is obtained using clock 20, and the network ID for the least cost route is obtained from an LCRM table 31 or 31a (page 19, lines 11-17). Thus, the least cost route is determined from table 31 or 31a based on a current time for an indicated destination.

Hilsenrath does not reference both current and future tariffs when determining the least cost route for a call. Although table 31, 31a contains least cost route information during different times, the device of Hilsenrath is concerned only with the data for the current time period when deciding the route to use. Thus, Hilsenrath does not disclose determining by reference to both current and **future data transfer tariffs** ..., as recited in claim 1.

Also, neither Hilsenrath, nor any of the other references, appears to disclose an affirmative consideration of a delay in a determination of when to initiate a transfer. Therefore, Hilsenrath does not disclose a **delay criterion** being indicative of **an acceptable delay before transfer initiation**, as recited in claim 1.

Furthermore, because there is no concept in Hilsenrath of deferring a telephone call or of an "acceptable delay before transfer initiation", there would be no reason for LCRM 3 to refer to future tariff related routing information to determine which route to use. Hilsenrath is only concerned with routing a telephone call in the present.

The passages of Hilsenrath referenced by the Examiner (page 10, lines 5-14 and page 24, lines 14-17) merely point out that different network tariffs may apply at different times and that least cost routing data updates should be sent during low tariff periods. However, the timing of such updating is predetermined and has no relation to the dynamic selection of a least cost service network initiated in response to a telephone call, and according to criteria individually specified for each data transfer.

Therefore, none of Stinson, Zonoun, Hilsenrath, Shaffer, nor any combination thereof, discloses referring to both present and future tariff data to determine a suitable service to use, having regard to cost and delay after receiving a transfer descriptor and before transfer initiation. Thus, none of Stinson, Zonoun, Hilsenrath, Shaffer, nor any combination thereof, discloses nor suggests "determining by reference to both current and future data-transfer tariffs whether and, if so, how, the data transfer can be effected within the transfer criteria," as recited in claim 1.

In view of the reasoning provided above, Appellants submit that claim 1 is patentably distinguishable over the cited combination of references.

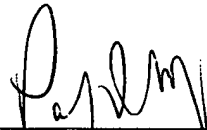
Independent claim 21 includes a recital of "an acceptable delay before transfer initiation" and "reference to a future data transfer", and claim 22 includes a recital of "an acceptable delay before transfer can be effected" and "future data-transfer tariffs." Thus, claims 21 and 22, for reasoning similar to that provided for support of claim 1, are also patentably distinguishable over the cited combination of references.

Appellant respectfully requests that the Board of Appeals reverse the final rejections of the claims, thereby enabling all of the pending claims to be allowed.

Respectfully submitted,

Date: _____

1/4/08



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